

**Office of the City Manager**

City of Richland Hills, Texas

## Memorandum

**To:** Honorable Mayor Bill Agan and members of the Richland Hills City Council  
**From:** Barbara J. Childress  
**Date:** March 9, 2015  
**Subject:** Amended Wrecker Ordinance

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**City Council Action Requested:**

Consider approving the amended city wrecker ordinance.

**Background Information:**

The city's wrecker ordinance, Article IV., Section 50., of the City Code, was not in compliance with current state law. The city attorney's office reviewed the ordinance and brought it into compliance. Primarily, the amended ordinance will now reflect wording that corresponds with state language in the following areas:

Definitions, licensing, private consent or non-consent tows from public or private parking areas, release of police non-consent towed vehicles, record keeping responsibilities for companies that perform non-consent tows; and, signage and posting requirements.

**Board/Citizen Input:**

N/A

**Financial Impact:**

N/A

**Attachments:**

Amended and redlined versions of the wrecker ordinance.

**Staff Contacts:**

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817-616-3785  
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**ORDINANCE NO. 1291-15**

**AN ORDINANCE AMENDING CHAPTER 50 “LAW ENFORCEMENT” OF THE CODE OF ORDINANCES, CITY OF RICHLAND HILLS, TEXAS BY AMENDING ARTICLE IV “VEHICLE WRECKER SERVICE;” PROVIDING FOR SAFETY-RELATED REGULATIONS OF TOW-TRUCK AND WRECKER OPERATIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Richland Hills is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council finds that regulation of vehicle towing is necessary for the purpose of promoting safety by preventing the unexpected loss of the use of one's vehicle, except in those instances wherein the owner or operator of the vehicle has been put on notice through signs of the likelihood of the involuntary tow of the vehicle; and

**WHEREAS**, the City Council has previously adopted safety-related regulations governing vehicle towing and has determined that those regulations should be amended as set out herein; and

**WHEREAS**, the City Council finds that regulation of operators of vehicle towing is necessary for the purpose of promoting safety by protecting vehicle owners from towing mistakes and the outright theft of vehicles, by preventing severe congestion and interference with police and ambulance at accident scenes, and to expedite the recovery of nonconsensual towed vehicles to restore safe transportation to the owner or operator; and

**WHEREAS**, the City Council believes that the proposed safety-regulations governing persons performing nonconsensual tows would promote the public safety in the City by limiting the number of false auto theft reports processed by the police department, thereby allowing the police to devote more time to responding to more critical public safety situations; and

**WHEREAS**, the City Council finds that regulation of vehicle towing is necessary for the purpose of promoting safety by implementing regulations to limit the practice of “chasing” in the City and also to limit, to the extent possible, the likelihood of violent or confrontational encounters between tow-truck operators and vehicle owners or operators; and

**WHEREAS**, the City Council desires to implement the recommendations of City staff to provide for contracting for police towing and to establish requirements for signs for non-consent tows, in addition to those required by the Texas Occupations Code; and

**WHEREAS**, the City of Richland Hills, Texas deems it necessary and proper and in the best interests of the health, safety, and general welfare of its citizenry to amend the provisions regulating towing services in the City, all of which are related to the goal of increasing safety in the City of Richland Hills.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHLAND HILLS, TEXAS:**

**SECTION 1.**

Article IV “Vehicle Wrecker Service” of Chapter 50, “Law Enforcement” of the Code of Ordinances, City of Richland Hills is hereby amended to read as follows:

**“ARTICLE IV. - VEHICLE WRECKER SERVICE**

**Sec. 50-151. - Definitions.**

In this article, the following words shall have the meanings ascribed to them below:

*Accident* means any occurrence that renders a vehicle wrecked or disabled.

*City* means the City of Richland Hills, Texas.

*Chief of Police* means the Chief of Police of the City of Richland Hills, or the Chief's designated representative.

*Consent tow* means the towing of a vehicle at the request of the owner or operator.

*Disabled vehicle* means a motor vehicle that has been rendered unsafe to be driven as the result of some occurrence, including, but not limited to, mechanical failure or breakdown, fire or vandalism, or a motor vehicle that is in a safe driving condition but whose owner or operator is not present, able or permitted to drive, so as to reasonably necessitate that the vehicle be removed by a wrecker.

*Motor vehicle* means every vehicle which is self-propelled.

*Non-consent tow* means the towing of a vehicle without the prior knowledge and consent of the owner or operator of said vehicle.

*Non-resident wrecker operator* means a wrecker or tow-truck operator registered with the State of Texas, who does not maintain a place of business within the corporate limits of the City of Richland Hills.

*Parking facility* means public or private property used, wholly or partly, for restricted or paid parking. The term includes:

- (1) A restricted space on a portion of an otherwise unrestricted parking facility; and
- (2) A commercial parking lot, parking garage, and a parking area serving or adjacent to a business, church, school, home that charges a fee for parking, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:
  - (a) A portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and
  - (b) The area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or curb of the roadway, whichever is further from the facility's property line.

*Person* means an individual, firm, partnership, association, corporation, company or organization of any kind.

*Police non-consent tow* means the towing of a vehicle at the request of the police department of the City without the prior knowledge and consent of the owner or operator of said vehicle. Examples include, but are not limited to, vehicles towed when the driver is incapacitated following an accident, vehicles towed when the driver has been arrested, vehicles removed from public property without prior notification of the vehicle owner, and seizures.

*Private non-consent tow* means the towing of a vehicle at the request of a private property or parking facility owner without the prior knowledge and consent of the owner or operator of said vehicle.

*Tow-truck operator* means a person engaged in the business of using a wrecker to tow, winch or otherwise move a motor vehicle.

*Towing company or wrecker service company* means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow-trucks over a public roadway in this State, but does not include a political subdivision of the State.

*Vehicle* means every mechanical device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

*Vehicle storage facility* means a garage, parking lot, or other facility that is:

- (1) owned by a person other than a governmental entity;
- (2) used to store or park at least 10 vehicles each year; and
- (3) that is operated by a person who holds a license issued under Texas Occupations Code Chapter 2303 to operate the facility.

*Wrecked vehicle* means a discarded, abandoned, junked, wrecked or worn out motor vehicle that is not in a condition to be lawfully operated on a public road.

*Wrecker* means a vehicle designed to be used primarily for removing wrecked or disabled vehicles, which is equipped with a mechanical device used to tow, winch, or otherwise move a vehicle, and which charges a fee for its services.

*Wrecker operator* means a person engaged in the business of using a wrecker to tow, winch or otherwise move a motor vehicle.

**Sec. 50-152. - Requirements.**

- (1) No person shall drive, operate or cause to be operated, nor shall any person employ, permit or allow another to drive, operate or cause to be operated, any tow-truck over any street in the City for the purpose of removing, moving or towing of any vehicle without first being properly licensed, insured and equipped in accordance with State law and the Texas Department of Licensing and Regulation regulations.
- (2) A person commits an offense if the person operates or employs another to drive, or operate any wrecker over any street in the City for the purpose of engaging in a non-consent tow, except as provided by this Article.
- (3) It is an affirmative defense to prosecution of a violation under this Article that the person is engaging in:
  - (a) The transportation of a vehicle by a non-resident wrecker operator from some point outside the City to some destination within the City;
  - (b) The transportation of a vehicle by a non-resident wrecker operator from some point outside the City and traversing the City to some other destination outside of the City.
- (4) All tow-trucks originating a consent tow within the City must comply with the licensing and equipment regulations and adhere to the specific tow-truck classifications for the specific use of that tow-truck as set forth in State law and the Texas Department of Licensing and Regulation regulations.

**Sec. 50-153. - Wrecker service contract authorized.**

- (1) The City shall have the right to contract with one or more wrecker service companies for all police non-consent tows in the City, for the towing of City owned vehicles, or for the towing of any vehicle made necessary in the exercise of City's police and governmental functions, and to store or impound such vehicles on the parking facility of such wrecker service company. The following provisions shall apply with regard to any wrecker service contracts entered into by the City.
- (2) The City will first attempt to utilize the wrecker service company with whom the City has entered into a contract on all non-consent tows. If the City has contracted with more than one company, the City will follow the contractual provisions or, in the absence of any governing contractual provision, procedures established by the

City Manager, to determine which contracted wrecker service company to utilize. If no wrecker service company with whom the City has entered into a contract is able to respond as required by the contract, the City may call any licensed wrecker service company when there exists an emergency situation or when deemed necessary by the Chief of Police or his or her authorized representative. In all such cases, a report will be forwarded to the Chief of Police describing the circumstances involving such use.

**Sec. 50-154. - Permitted tows.**

The towing of vehicles from public streets shall fall into one of two categories:

- (1) *Consent tow.* The operator of the vehicle or its owner must request this tow-truck service by name. This tow-truck service is not required to be on an approved listing to tow, but must be properly licensed according to state law. An owner's request (consent tow) may be used at the scene of an accident or on a vehicle that is abandoned, unless the officer on the scene determines that the vehicle is hazardous or that a time delay would endanger or hamper the general public's safety, well-being, or the investigation. If the officer deems it necessary, a "police non-consent tow" truck will be notified for immediate removal.
- (2) *Police non-consent tow.* A police officer for the City is hereby authorized to move a vehicle, require the operator or other person in charge of a vehicle to move the same, or have the vehicle removed by the wrecker service company that the City has a contract with under this Article to the nearest place of safety or to the premises of said wrecker service company, under the following circumstance:
  - (a) When any vehicle is left unattended upon any bridge, viaduct or causeway, or in any tunnel where such vehicle constitutes an obstruction to traffic;
  - (b) When any vehicle is otherwise illegally parked so as to block the entrance to any private driveway;
  - (c) When any vehicle is found upon a street and a report has been previously made that the vehicle has been stolen, or there is reasonable grounds to believe the vehicle is stolen;
  - (d) When an officer has reasonable grounds to believe the vehicle has been abandoned;
  - (e) When a vehicle upon a street is wrecked or disabled and
    - (i) Because of the wreck or disability its normal operation is impossible or impractical; or
    - (ii) The person or persons in charge of the vehicle are incapacitated by reason of physical injury or other reason, to such extent as to be unable to provide for its removal or custody or are not in the immediate vicinity of the wrecked or disabled vehicle;
  - (f) When an officer arrests a person driving or in control of a vehicle for an alleged offense and there is no other alternative to impoundment;
  - (g) When an officer finds a vehicle standing upon a street, or public or private property in violation of any State law or City Ordinance;
  - (h) When the owner or operator consents;

- (i) When in the opinion of a police officer, said vehicle constitutes a hazard or interferes with a normal function of a governmental agency;
- (j) When any vehicle is found to be a Junk Vehicle, in accordance with the City's Junk Vehicle Ordinance;
- (k) When in the opinion of the police officer, the safety of said vehicle is imperiled by reason of any catastrophe, emergency or unusual circumstances;
- (l) When the operator of a motor vehicle is requested to show proof of financial responsibility upon that vehicle and, in the opinion of a police officer, is unable to establish financial responsibility under Section 601.051 of the Texas Transportation Code;
- (m) When the vehicle is being held in a criminal case as evidence or has been seized for forfeiture in civil actions; and/or
- (n) Where otherwise authorized by law.

**Sec. 50-155. - Notification of police required prior to removal after accidents.**

No damaged or inoperative motor vehicle or vehicle shall be removed by the owner or a wrecker service company from the scene of a collision or vehicle accident without first notifying the Richland Hills Police Department and receiving consent from the police department for removal.

**Sec. 50-156. - Prohibition of unsolicited tow-truck activity; recommendations by employees.**

- (1) No person shall drive a wrecker or tow-truck to or near the scene of an accident within the City unless such tow-truck has been called to the scene by the owner of a vehicle involved, or the vehicle owner's authorized representative, or by the police department, or by the owner of private property on which the vehicle is located. Each such tow-truck operator, when called directly by the vehicle owner or his representative, shall notify the police department before proceeding to the scene of the disabled vehicle at the accident scene.
- (2) No employee of the City shall recommend to any person, directly or indirectly, either by word or gesture, sign or otherwise, the name of any particular person or firm engaged in the tow-truck business, nor shall any City employee influence or attempt to influence, in any manner, a decision of a person in choosing or selecting a tow-truck service, company or operator.

**Sec. 50-157. - Removal of wreckage and debris.**

Each wrecker company called to the scene of an accident shall completely remove from the street all resulting wreckage or debris, including all broken glass, before leaving the site, and shall exercise reasonable caution in doing so. In the event such wreckage or debris cannot be removed safely without police intervention, the wrecker operator shall notify the police department and request such assistance as is necessary.

**Sec. 50-158. - Repossession or recovery towing.**

Except as expressly permitted elsewhere in this Article, no person or firm shall operate a tow-truck business in any manner, directly or indirectly, within the City limits for the purpose of towing a vehicle without the direct and express consent of the owner of the vehicle being towed, unless that tow-truck or company has made the proper notification as prescribed by law to the police department, prior to the removal of the vehicle. Proper notification is deemed as the location the vehicle is being removed from, removed by whom, removed to what location, removed by whose authority, and a complete description of the vehicle, in a written manner on the prescribed form at the police department.

**Sec. 50-159. - Private non-consent towing; required signage.**

- (1) *Contractual tow-trucks; private property towing; non-consent towing.*
  - (a) A tow-truck service towing and/or a vehicle storage facility accepting a non-consent towed vehicle towed from private property must report that tow to the police department. The report must be made within thirty (30) minutes of removing the vehicle, giving a general description of the vehicle, the vehicle license plate number and issuing state, vehicle identification number (VIN), location from which it was removed, where it is stored, contact information of the vehicle storage facility, and of the persons authorizing the vehicle to be removed.
  - (b) Any tow-truck operator or wrecker operator who performs a non-consent tow in the City shall keep written records on each vehicle it tows as a non-consent tow. These records shall contain:
    - (i) The year, make, model, color, correct license plate number, state issuing the license, correct VIN of the vehicle, and the owner's or operator's name if reasonably available;
    - (ii) The date, time and location from which the vehicle was towed, the name of the person who authorized the tow, and the specific reason for the tow;
    - (iii) The name of the tow-truck driver that towed the vehicle, and the licensing number of the truck, along with the license plate number of the truck that towed the vehicle; and
    - (iv) All amounts charged for the towing of such vehicle, and the specific nature of each charge.
    - (v) Photographs or videos of each vehicle before it is towed, demonstrating the condition of unauthorized parking, for example, but not limited to, a vehicle parked in a handicapped parking space without a permit, blocking a dumpster, blocking a vehicle in a parking space, blocking an entrance or exit, and/or parking in a fire lane or other violation.
  - (c) The tow-truck operator or wrecker operator, his agent or employee shall make these records available for inspection and copying by the Chief of Police or his or her designee upon his or her request, and the City shall have access, upon request, to any books, documents, papers and records for the purpose of making audit examinations during the operating hours of the tow-truck operator.

- (d) Required records shall be kept under care and custody of the tow-truck operator or wrecker operator for at least two (2) years from the date of the tow.
- (2) *Parking facility signage and posting requirements.*
  - (a) Every parking facility owner who causes or authorizes a non-consent tow must post a sign in accordance with State law. In addition to the requirements set forth in State law, each sign shall provide the name of the person or firm authorized to tow vehicles from the parking facility; and name and address of the vehicle storage facility the vehicle is removed to.
  - (b) Every parking facility owner who causes or authorizes a non-consent tow must remove all signs upon the termination of the parking facility owner's interest in the parking facility or upon the expiration of the parking facility owner's non-consent tow contract.
- (3) *Proper notification.* A facsimile transmission of the authorized police department form shall be considered proper notification under both Section 50-158 and subsection (a) above.

**Sec 50 – 160. Towing without specific authority prohibited.**

- (1) Regardless of any general contractual or “patrol account” arrangement which may exist between a tow-truck operator, wrecker operator, or towing company and a parking facility owner, it is a violation of this Article to make a non-consent tow of any vehicle without first securing a specific, written directive to tow such vehicle signed by the owner of the parking facility or the owner's authorized representative that is not a tow-truck operator or wrecker operator. Such directive must:
  - (a) Identify the vehicle to be towed by make, color, and license plate number.
  - (b) Identify the person signing the directive.
  - (c) State the location from which the vehicle is to be towed.
  - (d) State the date and time the directive is signed.

**Sec. 50-161. - State regulation and towing charges for non-consent tows.**

- (1) The owner or operator of a towing company commits an offense if he charges a fee in excess of the maximum fee for the applicable non-consent tow fee set by State regulation.
- (2) A towing company or vehicle storage facility operator may not charge any other fee for a non-consent tow or service related to a non-consent tow except a towing fee or a drop fee tow.
- (3) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle that is subject to a non-consent tow attempts to retrieve the motor vehicle before its removal from the property or parked location, the maximum amount that may be charged for a drop fee (if the motor vehicle is hooked up) is the maximum fee permitted by State regulation. Before its removal from the property, the vehicle owner or operator has an absolute right to regain possession of the vehicle by payment of the drop fee. In the event the owner or operator arrives to

move the vehicle before the vehicle is fully hooked up, no drop fee may be charged.

- (4) The towing company and the vehicle storage facility must comply with State law and the Texas Department of License and Regulation regulations as they pertain to acceptable methods of payment. Notice of the methods of payment shall be given by the towing company to the owner or operator of the vehicle towed if the owner or operator is on sight at the time of the tow and by the vehicle storage facility when the owner appears to claim the towed vehicle.
- (5) This Section in no way prohibits tow-truck operators or wrecker operators from charging fees of a lesser amount.

**Sec. 50-162. Notice to vehicle owner or operator.**

- (1) Upon contact with the owner or operator of a vehicle which is the subject of a non-consent tow, the towing company or a vehicle storage facility operator, or any employee or agent, shall give written notice to the vehicle owner or operator of the information required by this Section. If there is no person-to-person contact, then this notice shall be mailed or faxed to the registered owner of the vehicle.
- (2) The intent of this Section is that the owner or operator of a vehicle that is the subject of a non-consent tow receive written information from the towing company or vehicle storage facility operator, in order to enhance the safety in a potentially volatile situation and allow safe, prompt, legal and orderly vehicle retrieval after a non-consent tow without a breach of the peace by any party:
  - (a) The name, address and phone number of the towing company and the vehicle storage facility;
  - (b) The name and address of the property owner that authorized the tow;
  - (c) The methods of payment accepted by the towing company and vehicle storage facility;
  - (d) An address for citizens to file written complaints with the City.

**Sec. 50-163. - General regulations regarding non-consent tows.**

- (1) Upon initial contact with the owner of a vehicle which is the subject of a non-consent tow, a wrecker service operator, a vehicle storage facility operator, or any employee or agent thereof shall give written notice to the vehicle owner of his right to a hearing that meets the requirements of the Texas Occupations Code. A person commits an offense if with criminal negligence he fails to provide notice as provided by this subsection.
- (2) When a police non-consent tow is performed, the owner of said vehicle shall be afforded the right to a hearing in the Justice Court in accordance with Texas Occupations Code Section 2308.452. This hearing shall be pursuant to the procedures outlined in Texas Occupations Code Chapter 2308.
- (3) Unless a police hold is placed upon a vehicle towed pursuant to a police non-consent tow, it shall be the responsibility of the towing company or wrecker service company to determine whether the vehicle should be released, when it should be released and to whom it should be released.

- (4) Non-consent towed vehicles removed from a location within the City shall not be taken to a storage facility which is more than thirty (30) miles from the location from which the vehicle was removed.
- (5) Non-consent towed vehicles removed from a location within the City shall not be taken to a storage facility that does not comply with State law and the Texas Department of License and Regulation regulations as they pertain to acceptable methods of payment.
- (6) Wrecker operators must be available to release vehicles twenty-four (24) hours each day and must respond within one (1) hour of request of the property owner and release the vehicle upon payment of the required fees.
- (7) No damaged or inoperative motor vehicle or trailer shall be removed by the owner or a wrecker service company from the scene of a collision or vehicle accident without notification to the police department.
- (8) No persons shall solicit any wrecker business in any manner, directly or indirectly, on the streets of the City at or near the scene of an accident or of wrecked or disabled vehicles.
- (9) The Chief of Police or an authorized representative shall enforce the terms of this Article and make such inspection of facilities as deemed necessary. Any variance from the provisions of this Article must be approved in advance in writing by the Chief of Police.
- (10) All wreckers shall be driven at posted speeds, unless otherwise directed by the officer in charge at the scene of the accident.
- (11) The wrecker company shall furnish the police department with the description and registration number of any vehicle of which the company has been unable to locate the owner. This information shall be furnished within ten (10) days from the date the company took custody of the vehicle. Additionally, each wrecker company shall furnish the police department with a monthly report of all vehicles impounded upon request by the police department. Such report will indicate the year, make, model, license plate number and VIN number of such impounded vehicle, along with the date towed, reason towed, date released, and person to whom the vehicle was released.

**Sec. 50-164. Violations; Penalties.**

- (1) Any person who violates any provision of this Article except Section 50-161 for which a specific penalty is not provided shall be guilty of a misdemeanor upon conviction and may be punished by a fine not to exceed \$500. Any person who violates Section 50-161 of this Article shall upon conviction be punished by a fine provided in Section 2308.505 of the Texas Occupations Code.
- (2) Each act of violation and each day in which a violation is permitted to continue shall constitute a separate offense.

**Sec. 50 – 165. Other Remedies.**

The City shall be entitled to pursue all other criminal and civil remedies to which it is entitled under any other law and the remedies provided herein are not exclusive.”

**SECTION 2.**

**Cumulative Clause.** This Ordinance shall be cumulative of all provisions of the City of Richland Hills, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of other Ordinances, in which event the conflicting provisions of the other Ordinances are hereby repealed.

**SECTION 3.**

**Severability Clause.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section

**SECTION 4.**

**Savings Clause.** All rights and remedies of the City of Richland Hills, Texas, are expressly saved as to any and all violations of the provisions of any ordinances related to wrecker service which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**SECTION 5.**

**Publication Clause.** The City Secretary of the City of Richland Hills is hereby directed to publish this Ordinance to the extent required by law.

**SECTION 6.**

**Effective Date.** This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 17<sup>th</sup> DAY OF MARCH, 2015.

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THE HONORABLE MAYOR BILL AGAN

ATTEST:

\_\_\_\_\_  
CATHY BOURG, CITY SECRETARY

EFFECTIVE DATE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
BETSY ELAM, CITY ATTORNEY

## ARTICLE IV. - VEHICLE WRECKER SERVICE

### Sec. 50-151. - Definitions.

In this article, the following words shall have the meanings ascribed to them below:

*Accident* means any occurrence that renders a vehicle wrecked or disabled.

*City* means the City of Richland Hills, Texas.

*Chief of police* means the Chief of Police of the City of Richland Hills, or the chief's designated representative.

*Consent tow* means the towing of a vehicle at the request of the owner or operator.

*Disabled vehicle* means a motor vehicle that has been rendered unsafe to be driven as the result of some occurrence, including, but not limited to mechanical failure or breakdown, fire or vandalism, or a motor vehicle that is in a safe driving condition but whose owner or operator is not present, able or permitted to drive so as to reasonably necessitate that the vehicle be removed by a wrecker.

*Motor vehicle* means every vehicle which is self propelled.

*Non-consent tow* means the towing of a vehicle without the prior knowledge and consent of the owner or operator of said vehicle.

*Non-resident wrecker operator* means a wrecker or tow truck operator registered with the State of Texas who does not maintain a place of business within the corporate limits of the City of Richland Hills.

*Parking facility* means public or private property used, wholly or partly, for restricted or paid parking. The term includes:

(1)A restricted space on a portion of an otherwise unrestricted parking facility; and

(2)A commercial parking lot, parking garage, and a parking area serving or adjacent to a business, church, school, home that charges a fee for parking, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

a. A portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and

b. The area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or curb of the roadway, whichever is further from the facility's property line.

*Person* means an individual, firm, partnership, association, corporation, company or organization of any kind.

*Police non-consent tow* means the towing of a vehicle at the request of the police department of the city without the prior knowledge and consent of the owner or operator of said vehicle. Examples include, but are not limited to, vehicles towed when the driver is incapacitated following an accident, vehicles towed when the driver has been arrested, vehicles removed from public property without prior notification of the vehicle owner, and seizures.

*Private non-consent tow* means the towing of a vehicle at the request of a private property [or parking facility](#) owner without the prior knowledge and consent of the owner or operator of said vehicle.

*Tow truck operator* means a person engaged in the business of using a wrecker to tow, winch or otherwise move a motor vehicle.

[Towing company or Wrecker service company means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state but does not include a political subdivision of the state.](#)

*Vehicle* means every mechanical device in, upon or by which any person or property is or may be transported or drawn upon a public highway except devices moved by human power or used exclusively upon stationary rails or tracks.

[Vehicle storage facility means a garage, parking lot, or other facility that is:](#)

[\(1\) owned by a person other than a governmental entity;](#)

[\(2\) used to store or park at least 10 vehicles each year; and](#)

[\(3\) that is operated by a person who holds a license issued under Texas Occupations Code Chapter 2303 to operate the facility.](#)

*Wrecked vehicle* means a discarded, abandoned, junked, wrecked or worn out motor vehicle that is not in a condition to be lawfully operated on a public road.

*Wrecker* means a vehicle designed to be used primarily for removing wrecked or disabled vehicles which is equipped with a mechanical device used to tow, winch, or otherwise move a vehicle, and which charges a fee for its services.

*Wrecker operator* means a person engaged in the business of using a wrecker to tow, winch or otherwise move a motor vehicle.

#### **Sec. 50-152. - Requirements.**

(a) [No person shall drive, operate or cause to be operated, nor shall any person employ, permit or allow another to drive, operate or cause to be operated, any tow truck over any street in the City for the purpose of removing, moving or towing of any vehicle without first being properly licensed, insured and equipped in accordance with state law and the Texas Department of Licensing and Regulation regulations.](#)

(b) A person commits an offense if the person operates or employs another to drive, or operate any wrecker over any street in the city for the purpose of engaging in a police non-consent tow, except as provided by this article.

(c) It is an affirmative defense to prosecution of a violation ~~of subsection (a) hereof~~ [under this article](#) that the person is engaging in:

(1) The transportation of a vehicle by a non-resident wrecker operator from some point outside the city to some destination within the city;

(2) The transportation of a vehicle by a non-resident wrecker operator from some point outside the city and traversing the city to some other destination outside of the city.

- ~~(3) The transportation of a vehicle by a wrecker operator at the request of the owner or operator of that vehicle (consent tow); or~~
- ~~(4) The transportation of a vehicle on the private property of another by a wrecker operator with the consent of the operator or owner of the vehicle (a consent tow), or of the owner of the private property (a private non-consent tow).~~

~~(d) All tow trucks originating a consent tow within the City must comply with the licensing and equipment regulations and adhere to the specific tow truck classifications for the specific use of that tow truck as set forth in state law and the Texas Department of Licensing and Regulation regulations.~~

**Sec. 50-153. - Wrecker service contract authorized.**

- (a) The city shall have the right to contract with one or more wrecker service companies for all police non-consent tows in the city, for the towing of city owned vehicles, or for the towing of any vehicle made necessary in the exercise of city's police and governmental functions, and to store or impound such vehicles on the parking facility of such wrecker service company. The following provisions shall apply with regard to any wrecker service contracts entered into by the city.
- (b) The city will first attempt to utilize the wrecker service company with whom the city has entered into a contract on all non-consent tows. If the city has contracted with more than one company, the city will follow the contractual provisions or, in the absence of any governing contractual provision, procedures established by the city manager, to determine which contracted wrecker service company to utilize. If no wrecker service company with whom the city has entered into a contract is able to respond as required by the contract, the city may call any licensed wrecker service company when there exists an emergency situation or when deemed necessary by the chief of police or his or her authorized representative. In all such cases, a report will be forwarded to the chief of police describing the circumstances involving such use.

**Sec. 50-154. - Permitted tows.**

The towing of vehicles from public streets shall fall into one of the following two categories:

- (1) *Consent tow.* The operator of the vehicle or its owner must request this tow truck service by name. This tow truck service is not required to be on an approved listing to tow, but must be properly licenses according to state law have in place a tow truck tag as required by the Texas Department of Transportation or it will not be allowed to tow the vehicle. An owner's request (consent tow) may be used at the scene of an accident or on a vehicle that is abandoned, unless the officer on the scene determines that the vehicle is hazardous or that a time delay would endanger or hamper the general public's safety, well being, or the investigation. If the officer deems it necessary, a "police non-consent tow" truck will be notified for immediate removal.
- (2) *Police non-consent tow.* ~~The wrecker service company or companies shall tow any vehicle which (1) in the opinion of the officer presents a traffic hazard or danger, and either the owner or operator is not present, or is, in the opinion of the officer, is incapable of driving because of injury, incarceration or otherwise, or the vehicle is, in~~

~~the opinion of the officer, unsafe to be driven, and the owner or operator is unable or unwilling to request a consent tow; (2) is illegally parked and city ordinance or state law authorizes removal or towing of the vehicle; (3) is being held in a criminal case as evidence or has been seized for forfeiture in civil actions; or (4) is otherwise subject to non-consent towing under applicable state law or city ordinance. A police officer for the City is hereby authorized to move a vehicle, require the operator or other person in charge of a vehicle to move the same, or have the vehicle removed by the City's Contract Towing Service under this Article to the nearest place of safety or to the premises of said Contract Towing Service, under the following circumstance:~~

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- ~~(a) When any vehicle is left unattended upon any bridge, viaduct or causeway, or in any tunnel where such vehicle constitutes an obstruction to traffic;~~
- ~~(b) When any vehicle is otherwise illegally parked so as to block the entrance to any private driveway;~~
- ~~(c) When any vehicle is found upon a street and a report has been previously made that the vehicle has been stolen, or there is reasonable grounds to believe the vehicle is stolen;~~
- ~~(d) When an officer has reasonable grounds to believe the vehicle has been abandoned;~~
- ~~(e) When a vehicle upon a street is wrecked or disabled and
  - ~~a. Because of the wreck or disability its normal operation is impossible or impractical; or~~
  - ~~b. The person or persons in charge of the vehicle are incapacitated by reason of physical injury or other reason to such extent as to be unable to provide for its removal or custody or are not in the immediate vicinity of the wrecked or disabled vehicle;~~~~
- ~~(f) When an officer arrests a person driving or in control of a vehicle for an alleged offense and there is no other alternative to impoundment.;~~
- ~~(g) Whenever an officer finds a vehicle standing upon a street, or public or private property in violation of any State law or City ordinance;~~
- ~~(h) When the owner or operator consents;~~
- ~~(i) When in the opinion of a police officer, said vehicle constitutes a hazard or interferes with a normal function of a governmental agency;~~
- ~~(j) When any vehicle is found to be a Junk Vehicle, in accordance with the City's Junk Vehicle ordinance;~~
- ~~(k) When in the opinion of the a police officer, the safety of said vehicle is imperiled by reason of any catastrophe, emergency or unusual circumstances;~~
- ~~(l) When the operator of a motor vehicle is requested to show proof of financial responsibility on that vehicle and, in the opinion of a police officer, is unable to establish financial responsibility under section 601.051 of the Texas Transportation Code;~~

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(m) When the vehicle is being held in a criminal case as evidence or has been seized for forfeiture in civil actions; and/or

(n) Where otherwise authorized by law.

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**Sec. 50-155. - Notification of police required prior to removal after accidents.**

No damaged or inoperative motor vehicle or vehicle shall be removed by the owner or a wrecker service company from the scene of a collision or vehicle accident without first notifying the Richland Hills Police Department and receiving a consent from the Police Department for removal.

**Sec. 50-156. - Prohibition of unsolicited tow truck activity; recommendations by employees.**

- (a) No person shall drive a wrecker or tow truck to or near the scene of an accident within the city unless such tow truck has been called to the scene by the owner of a vehicle involved, or the vehicle owner's authorized representative, or by the police department, or by the owner of private property on which the vehicle is located. Each such tow truck operator, when called directly by the vehicle owner or his representative, shall notify the police dispatcher before proceeding to the scene of the disabled vehicle at the accident scene.
- (b) No employee of the city shall recommend to any person, directly or indirectly, either by word or gesture, sign or otherwise, the name of any particular person or firm engaged in the tow truck business, nor shall any city employee influence or attempt to influence, in any manner, a decision of a person in choosing or selecting a tow truck service, company or operator.

**Sec. 50-157. - Removal of wreckage and debris.**

Each wrecker company called to the scene of an accident shall completely remove from the street all resulting wreckage or debris, including all broken glass, before leaving the site, and shall exercise reasonable caution in doing so. In the event such wreckage or debris cannot be removed safely without police intervention, the wrecker operator shall notify the police department and request such assistance as is necessary.

**Sec. 50-158. - Repossession or recovery towing.**

Except as expressly permitted elsewhere in this article, no person or firm shall operate a tow truck business in any manner, directly or indirectly, within the city limits for the purpose of towing a vehicle without the direct and express consent of the owner of the vehicle being towed, unless that tow truck or company has made the proper notification as prescribed by law to the police department, prior to the removal of the vehicle. Proper notification is deemed as the location the vehicle is being removed from, removed by whom, removed to what location, removed by whose authority, and complete description of the vehicle, in a written manner on the prescribed form at the police department.

**Sec. 50-159. - Private non-consent towing; required signage.**

- (a) *Contractual tow trucks; private property towing; non-consent towing.*

~~(1) Tow truck service or firms engaging in private non-consent towing of vehicles pursuant to V.T.C.A. Transportation ch. 684, shall be licensed by the State pursuant to V.T.C.A. Transportation ch. 643, subch. B.~~

~~(2) A tow truck service towing and/or a vehicle storage facility accepting a non-consent towed vehicle towed from private property must report that tow to the police department. Theis reporting must be made within 30 minutes of removing the vehicle, giving a general description of the vehicle, the vehicle license plate number and issuing state, vehicle identification number, location from which it was removed, where it is stored, contact information of the vehicle storage facility and of the persons authorizing the vehicle to be removed.~~

~~(2) Any tow truck operator or wrecker operator who performs a non-consent tow in the City shall keep written records on each vehicle it tows as a non-consent tow. These records shall contain:~~

~~a. The year, make, model, color, correct license plate number, state issuing the license, correct vehicle identification number of the vehicle, and the owner's or operator's name if reasonably available;~~

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~~b. The date, time and location from which the vehicle was towed, the name of the person who authorized the tow, and the specific reason for the tow;~~

~~c. The name of the tow truck driver that towed the vehicle, and the licensing number of the truck along with the license plate number of the truck that towed the vehicle; and~~

~~d. All amounts charged for the towing of such vehicle, and the specific nature of each charge.~~

~~e. Photographs or videos of each vehicle before it is towed, demonstrating the condition of unauthorized parking, for example, but not limited to, a vehicle parked in a handicapped parking space without a permit, blocking a dumpster, blocking a vehicle in a parking space, blocking an entrance or exit, parking in a fire lane or other violation.~~

~~(4) The tow truck operator or wrecker operator, his agent or employee shall make these records available for inspection and copying by the Chief of Police or his designee upon his request, and the City shall have access, upon request, to any books, documents, papers and records for the purpose of making audit examinations during the operating hours of the tow truck operator.~~

~~(5) Required records shall be kept under care and custody of the tow truck operator or wrecker operator for at least two (2) years from the date of the tow.~~

(b) *Parking facility signage and posting requirements.*

~~(1) Every parking facility owner who causes or authorizes a non-consent tow must post a sign in accordance with state law. In addition to the requirements set forth in state law, each sign shall provide the name of the person or firm authorized to tow vehicles from the parking facility; and name and address of the vehicle storage facility the vehicle is removed to.~~

~~(2) Every parking facility owner who causes or authorizes a non-consent tow must remove all signs upon the termination of the parking facility owner's interest in the parking facility or upon the expiration of the parking facility owner's non-consent tow contract.~~

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~~(1) These requirements shall apply only where notice of prohibited parking is given by signs. They shall not apply to tows made of vehicles parked in fire lanes or of vehicles obstructing an entrance, exit, or aisle of a parking facility.~~

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~~(2) Signs shall be placed on the right hand side of each driveway access or curb cuts allowing vehicular access to a parking facility. If there are no curbs or access barriers, signs shall be placed at intervals of not less than 25 feet around the perimeter which is accessible by vehicles.~~

~~(3) Each sign shall be placed at a right angle so as to face entering traffic. They shall be placed no farther than five feet from the public right-of-way, but shall not be within said right-of-way.~~

~~(4) Each sign shall be permanently installed on a pole, post, permanent wall, or permanent barrier so that the bottom edge of the sign is no lower than five feet and no higher than eight feet above the ground level.~~

~~(5) Each sign shall be a minimum of 18 inches wide by 24 inches high, and a maximum of 24 inches wide by 30 inches high. Their facings shall be fabricated out of weatherproof material. The letters on such signs shall be of a minimum height of two inches, of a contrasting color to the background, and shall be light reflective. The background shall be white.~~

~~(6) Each sign shall state who may park in the facility, and shall further state that all others are prohibited and will be towed away at the owner's expense. The words "TOW AWAY ZONE" or "TOWING ENFORCED" shall be included on each sign in capital letters of a minimum height of two inches.~~

~~(7) Each sign shall provide the name and current telephone number of the person or firm authorized to tow vehicles from the parking facility, and the name and current telephone number of the vehicle storage facility, if different from the person or firm authorized to tow vehicles. Alternatively, each sign may state the name and phone number of the parking facility owner if that person has knowledge of the location of the stored vehicle.~~

~~(8) Signs shall be continuously maintained at a parking facility for 24 hours prior to the towing or removing of any vehicle. However, this subsection shall not be deemed as giving proper notice to the owner of a vehicle parked on a parking facility prior to the installation of the signs and not subsequently moved by the owner.~~

~~(9) These provisions shall be in addition to the requirements of V.T.C.A., Transportation Code chs. 684 and 685.~~

~~(c) *Proper notification.* A facsimile transmission of the authorized police department form shall be considered proper notification under both section 50-158 and subsection (a) above.~~

~~Sec. 50-160. — Permit requirements and general provisions regarding permits.~~

- ~~(a) No person shall engage in non-consent tows within the city limits without first obtaining a wrecker service permit from the chief of police as outlined in this section. It is an affirmative defense to prosecution of a violation of this subsection that the person is engaging in:~~
- ~~(1) The transportation of a vehicle by a non-resident wrecker operator from some point outside the city to some destination within the city; or~~
  - ~~(2) The transportation of a vehicle by a non-resident wrecker operator from some point outside the city and traversing the city to some other destination outside of the city.~~
- ~~(b) All applicants for wrecker service permits must furnish the chief of police with the following:~~
- ~~(1) A written application for each wrecker stating the following information: (1) the names, drivers' license numbers, addresses and telephone numbers of those persons who will operate applicant's vehicles; (2) the names, drivers' license numbers, addresses and telephone numbers of those persons who will have access to applicant's storage area; (3) a statement of applicant's fees for towing and storage; and (4) location of applicant's storage facilities where all damaged, inoperative and abandoned vehicles will be taken for safekeeping;~~
  - ~~(2) A copy of an insurance policy insuring the applicant issued by a company licensed to do business in the State of Texas in good standing, said policy to provide limits of not less than the following sums:
    - ~~a. Bodily injury liability: \$100,000.00 for each person; \$500,000.00 for each accident;~~
    - ~~b. Property damage: \$50,000.00 for each wrecker vehicle;~~
    - ~~c. Garage keeper's extra legal liability insurance to cover the maximum number of customers; automobiles stored for damage due to fire, explosion, theft, riot, vandalism and collision. A cash escrow deposit in the amount of \$25,000.00 or an acceptable fidelity bond in the amount of \$25,000.00 insuring and naming the city as beneficiary against physical damage loss to stored vehicles, theft of stored vehicles or any part thereof or theft of contents of stored vehicles may be furnished in lieu of garage keeper's liability insurance; and~~Each policy mentioned shall contain an endorsement providing for 30 days' notice to the city in the event of any material change or cancellation of each policy.~~
- ~~(c) The applicant's facility and equipment shall meet the following minimum criteria:~~
- ~~(1) Each wrecker shall not be less than one ton in size;~~
  - ~~(2) Each wrecker shall be equipped with a power take-off winch, winch line and boom, with a factory rated capacity of not less than 5,000 pounds;~~
  - ~~(3) Each wrecker shall carry as standard equipment a tow bar, safety chains, a fire extinguisher, wrecker bar, broom, axe, shovel, flags, flares and scotch blocks;~~
  - ~~(4) Each wrecker shall have inscribed on each side thereof in letters not less than three inches in height the name and address of the company; and~~
  - ~~(5) Each wrecker shall be radio equipped for communications.~~

- ~~(d) The applicant shall perform criminal background checks on all employees and criminal background driving record checks on all drivers upon hire and at least annually thereafter, and shall conduct drug testing and screening upon hire and on an as-needed basis thereafter as permitted by law to insure the safety of its drivers, and shall report the results of such checks to the chief of police when applying for a permit and when seeking renewal of such permit. No person who has been convicted of a felony shall be assigned by the applicant to conduct business within the city and no person who has been convicted of a felony, who has a conviction for driving while intoxicated or driving under the influence, who has received a positive test for use of illegal substances, or who otherwise has any history of substance abuse shall be assigned by the applicant to drive a wrecker within the city.~~
- ~~(e) All of the required information must be kept current, showing all additions and/or deletions to the approved applications on file with the city.~~
- ~~(f) Upon receipt of a permit application, the chief of police or a duly authorized representative shall inspect the applicant's records and facility, including the storage area and each such wrecker, and determine whether the requirements established by this section and other applicable law and regulations have been met. If the chief of police so determines, the chief shall issue such permits to applicants complying with the provisions of this section after the applications have been completed and filed in his office, and the permit fees have been paid.~~
- ~~(g) All wrecker permits shall be visibly displayed on the inside of the windshield of each wrecker operated within the city. All permits issued shall expire on December 31 of the year in which they were issued. Wrecker permits shall not be transferable.~~

**Sec 50 – 160. Towing without Specific Authority Prohibited.**

(a) Regardless of any general contractual or “patrol account” arrangement which may exist between a tow truck operator, wrecker operator, or towing company and a parking facility owner, it is a violation of this article to make a non-consent tow of any vehicle without first securing a specific, written directive to tow such vehicle signed by the owner of the parking facility or the owner’s authorized representative that is not a tow truck operator or wrecker operator. Such directive must:

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- (1) Identify the vehicle to be towed by make, color, and license plate number.
- (2) Identify the person signing the directive.
- (3) State the location from which the vehicle is to be towed.
- (4) State the date and time the directive is signed.

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**Sec. 50-161. - Permit application fee and maximum fees relating to towing.**

A wrecker service permit application fee and maximum fees relating to non-consent tows for each wrecker shall be established from time to time by resolution of the city council. The permit fee shall be set forth in the fee schedule, appendix A to this Code. Until changed, the maximum fees relating to non-consent tows for each wrecker shall be as follows:

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- (1) Base charge for weekdays (8:00 a.m. to 5:30 p.m.) .....\$120.00
- (2) Base charge for nights, weekends and holidays ..... 120.00
- (3) Use of dollies .....35.00
- (4) Use of winch (minimum) .....20.00
- (5) Drop drive shaft .....25.00
- (6) Stand-by time (after initial 30 minutes), per hour .....100.00
- (7) Large wrecker .....216.00
- (8) Vehicles in excess of three tons .....50.00
- (9) Storage fees .....15.00 per day
- (10) Impound fee .....20.00
- (11) Notification of owners of towing and/or impounding .....32.00

All wrecker services performing non-consent tows shall comply with this schedule of rates for towing and reclaim by the vehicle's owners. This in no way prohibits wrecker services from charging fees of a lesser amount. **State Regulation and Towing Charges for Non-consent Tows.**

- (a) The owner or operator of a towing company commits an offense if he charges a fee in excess of the maximum fee for the applicable non-consent tow fee set by state regulation.
- (b) A towing company or vehicle storage facility operator may not charge any other fee for a non-consent tow or service related to a non-consent tow except a towing fee or a drop fee tow.
- (c) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle that is subject to a non-consent tow attempts to retrieve the motor vehicle before its removal from the property or parked location, the maximum amount that may be charged a drop fee (if the motor vehicle is hooked up) is the maximum fee permitted by state regulation. Before its removal from the property the vehicle owner or operator has an absolute right to regain possession of the vehicle by payment of the drop fee. In the event the owner or operator arrives to move the vehicle before the vehicle is fully hooked up, no drop fee may be charged.
- (d) The towing company and the vehicle storage facility must comply with State law and the Texas Department of License and Regulation regulations as they pertain to methods of payment. Notice of the methods of payment shall be given by the towing company to the owner or operator of the vehicle towed if the owner or operator is on sight at the time of the tow and by the vehicle storage facility when the owner appears to claim the towed vehicle.
- (e) This section in no way prohibits tow truck operators or wrecker operators from charging fees of a lesser amount.

**Sec. 50-162. Notice to Vehicle Owner or Operator.**

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- (a) Upon contact with the owner or operator of a vehicle which is the subject of a non-consent tow, the towing company or a vehicle storage facility operator, or any employee or agent, shall give written notice to the vehicle owner or operator of the information required by this Section. If there is no person-to-person contact, then this notice shall be mailed or faxed to the registered owner of the vehicle.
- (b) The intent of this Section is that the owner or operator of a vehicle that is the subject of a non-consent tow receive written information from the towing company or vehicle storage facility operator, in order to enhance the safety in a potentially volatile situation and allow safe, prompt, legal and orderly vehicle retrieval after a non-consent tow without a breach of the peace by any party:
- (1) The name, address and phone number of the towing company and the vehicle storage facility;
  - (2) The name and address of the property owner that authorized the tow;
  - (3) The methods of payment accepted by the towing company and vehicle storage facility;
  - (4) An address for citizens to file written complaints with the City.

**Sec. 50-1632. - General regulations regarding non-consent tows.**

- ~~(a) Wrecker operators and wrecker service companies performing non-consent tows within the city must accept payment by major credit cards as payment for the fees described in this chapter relating to towing.~~
- (b) Upon initial contact with the owner of a vehicle which is the subject of a non-consent tow, a wrecker service operator, a vehicle storage facility operator, or any employee or agent thereof shall give written notice to the vehicle owner of his right to a hearing that meets the requirements of the Texas Occupations Code pursuant to V.T.C.A., Transportation Code, ch. 685. A person commits an offense if with criminal negligence he fails to provide notice as provided by this subsection. Such notice shall be on a form promulgated by the chief of police and shall include the name, address and phone number of the person or agency that authorized the removal, and a statement that the hearing must be requested in writing within 14 days of the date the vehicle was stored and that the request must be filed with a magistrate in whose jurisdiction is the location from which the vehicle was removed.
- (c) When a police non-consent tow is performed, the owner of said vehicle shall be afforded the right to a hearing in the Justice Court in accordance with Texas Occupations Code Section 2308.452. This hearing shall be pursuant to the procedures outlined in Texas Occupations Code Chapter 2308.
- (d) Unless a police hold is placed upon a vehicle towed pursuant to a police non-consent tow, it shall be the responsibility of the towing company or wrecker service company to determine

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whether the vehicle should be released, when it should be released and to whom it should be released.

Non-consent towed vehicles removed from a location within the city shall not be taken to a storage facility which is more than 30 miles from the location from which the vehicle was removed.

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- (d) Non-consent towed vehicles removed from a location within the city shall not be taken to a storage facility that does not accept major credit cards.
- (e) Wrecker operators must be available to release vehicles 24 hours each day and must respond within one hour of request of the property owners and release the vehicle upon payment of the required fees.
- (f) No damaged or inoperative motor vehicle or trailer shall be removed by the owner or a wrecker service company from the scene of a collision or vehicle accident without notification to the police department.
- (g) No persons shall solicit any wrecker business in any manner, directly or indirectly, on the streets of the city at or near the scene of an accident or of wrecked or disabled vehicles.
- (h) The chief of police or an authorized representative shall enforce the terms of this article and make such inspection of facilities as deemed necessary. Any variance from the provisions of this article must be approved in advance in writing by the chief of police.
- ~~(i) The chief of police may indefinitely suspend the wrecker service permit issued to any company or any or all wreckers belonging to the company for violation of any of the provisions of this article. Any person whose permit has been suspended may file an appeal to the city manager. The city manager shall have authority upon the hearing of the appeal to reverse, vacate or modify the suspension. The decision of the city manager shall be final.~~
- (j) All wreckers shall be driven at posted speeds unless otherwise directed by the officer in charge at the scene of the accident.
- ~~(k) The wrecker company shall furnish the police department with the description and registration number of any vehicle of which the company has been unable to locate the owner. This information shall be furnished within ten days from the date the company took custody of the vehicle. Additionally, each wrecker company shall furnish the police department a monthly report of all vehicles impounded as a result of a request by the police department. Such report will indicate the year, make, license and VIN number of such impounded vehicle, along with the date pulled, reason pulled and date released.~~

~~(l) If the initial request for a pull comes from the police department, no release shall be granted without authorization from the police department. This provision shall not apply to pulls at owner's request which are relayed to the wrecker company by the police department. The police dispatcher shall inform the wrecker company whether a pull is an owner's request or a police department's request.~~

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**Sec. 50-164. Violations; Penalties.**

(a) Any person who violates any provision of this article except Section 50-161 for which a specific penalty is not provided shall be guilty of a misdemeanor upon conviction and may be punished by a fine not to exceed \$500. Any person who violates Section 50-161 of this

article shall upon conviction be punished by a fine provided in Section 2308.505 of the Texas Occupations Code.

(b) Each act of violation and each day in which a violation is permitted to continue shall constitute a separate offense.

**Sec. 50 – 165. Other Remedies.**

The City shall be entitled to pursue all other criminal and civil remedies to which it is entitled under any other law and the remedies provided herein are not exclusive.